

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 34797

NEW ENGLAND TRANSRAIL, LLC, d/b/a
WILMINGTON & WOBURN TERMINAL RAILWAY
—CONSTRUCTION, ACQUISITION AND OPERATION EXEMPTION—
IN WILMINGTON AND WOBURN, MASS.

Decided: January 11, 2016

In a petition for exemption filed December 5, 2005,¹ New England Transrail, LLC, d/b/a Wilmington & Woburn Terminal Railway (NET) sought authority from the Board to acquire and operate over track on and adjacent to a parcel of land owned by the Olin Corporation and located in Wilmington and Woburn, Mass. Years later, after multiple rounds of comments and decisions, the Board deferred its environmental review of NET's petition to allow the Environmental Protection Agency (EPA) to issue and finalize its own environmental study related to the site.

On August 18, 2015, NET filed a status report and request for clarification, asking that the Board lift the deferral of environmental review previously instituted in this proceeding. In its filing, NET explained that significant additional work had been undertaken by the Olin Corporation and the EPA since the environmental review was deferred and that EPA no longer supports deferral of the Board's environmental review.

In response to NET's status report and request for clarification, the Town of Wilmington (the Town) and the Wilmington Environmental Restoration Committee separately filed comments on September 8, 2015, and October 7, 2015, respectively, asking the Board to deny NET's request to lift the deferral of environmental review.

On November 6, 2015, the EPA submitted a letter to the Board's Office of Environmental Analysis, stating that the facts no longer support continuing to defer the Board's environmental review process in this case. By decision served on December 14, 2015, the Board accepted EPA's letter into the record and set a deadline for comments in response to EPA's submission. By decision served on December 30, 2015, the Board extended the deadline for comments in response to EPA's November 6, 2015 letter until January 14, 2016.

¹ The petition for exemption in this proceeding is a resubmission of a petition for exemption previously filed in 2003 in New England Transrail, LLC—Construction, Acquisition & Operation Exemption—In Wilmington & Woburn, Mass., Docket No. FD 34391.

The Board now is revising the service list in this proceeding to alleviate potential burdens imposed by the extensive service list that has accrued in the more than a decade that this proceeding has been pending. Any persons who are interested in being on the service list in Docket No. FD 34797 must send written notification to the Board with a copy to NET's representative by February 1, 2016. The Board will issue a revised service list as soon as practicable thereafter.

The Board will temporarily waive the service requirements for persons who file comments in response to the Board's December 14, 2015 decision, as extended, prior to the Board's issuance of the revised service list. The Board will post such filings to its website without delay. Parties, however, must (1) serve such filings on the parties of record included on the revised service list once it is issued and (2) certify to the Board that such service has been accomplished within 10 days of the Board's issuance of the revised service list.

It is ordered:

1. Any persons who are interested in being on the Docket No. FD 34797 service list must send written notification to the Board with a copy to NET's representative by February 1, 2016.
2. The Board temporarily waives the service requirements for persons filing comments in response to the Board's December 14, 2015 decision, as extended, prior to the Board's issuance of the revised service list. However, such persons must comply with the procedural requirements described above.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.